

LAW REVIEW COMMENTARIES

Rewriting the fiscal constitution: The case of
Graham Rudman-Hollings. Kate Stith, 76 Cal.
L. Rev. 563 (1988).

§ 1553. Availability of appropriation accounts to pay obligations

(a) After the end of the period of availability for obligation of a fixed appropriation account and before the closing of that account under section 1552(a) of this title, the account shall retain its fiscal-year identity and remain available for recording, adjusting, and liquidating obligations properly chargeable to that account.

(b)(1) Subject to the provisions of paragraph (2), after the closing of an account under section 1552(a) or 1555 of this title, obligations and adjustments to obligations that would have been properly chargeable to that account, both as to purpose and in amount, before closing and that are not otherwise chargeable to any current appropriation account of the agency may be charged to any current appropriation account of the agency available for the same purpose.

(2) The total amount of charges to an account under paragraph (1) may not exceed an amount equal to 1 percent of the total appropriations for that account.

(c)(1) In the case of a fixed appropriation account with respect to which the period of availability for obligation has ended, if an obligation of funds from that account to provide funds for a program, project, or activity to cover amounts required for contract changes would cause the total amount of obligations from that appropriation during a fiscal year for contract changes for that program, project, or activity to exceed \$4,000,000, the obligation may only be made if the obligation is approved by the head of the agency (or an officer of the agency within the Office of the head of the agency to whom the head of the agency has delegated the authority to approve such an obligation).

(2) In the case of a fixed appropriation account with respect to which the period of availability for obligation has ended, if an obligation of funds from that account to provide funds for a program, project, or activity to cover amounts required for contract changes would cause the total amount obligated from that appropriation during a fiscal year for that program, project, or activity to exceed \$25,000,000, the obligation may not be made until—

(A) the head of the agency submits to the appropriate authorizing committees of Congress and the Committees on Appropriations of the Senate and the House of Representatives a notice in writing of the intent to obligate such funds, together with a description of the legal basis for the proposed obligation and the policy reasons for the proposed obligation; and

(B) a period of 30 days has elapsed after the notice is submitted.

(3) In this subsection, the term "contract change" means a change to a contract under which the contractor is required to perform additional work. Such term does not include adjustments to pay claims or increases under an escalation clause.

(d)(1) Obligations under this section may be paid without prior action of the Comptroller General.

(2) This subchapter does not—

(A) relieve the Comptroller General of the duty to make decisions requested under law; or

(B) affect the authority of the Comptroller General to settle claims and accounts.

As amended Pub.L. 101-510, Div. A, Title XIV, § 1405(a)(1), Nov. 5, 1990, 104 Stat. 1676.)

HISTORICAL AND STATUTORY NOTES

1990 Amendments

Pub.L. 101-510 amended text generally. Prior to amendment, text read as follows:

"(a) Each appropriation account established under section 1552 of this title is accounted for separately and remains available until expended to pay obligations chargeable against any appropriation from which the account is derived.

"(b) Under regulations prescribed by the Comptroller General, obligations under subsection (a) of this section may be paid without prior

action of the Comptroller General. However, this subchapter does not—

"(1) relieve the Comptroller General of the duty to make decisions requested under law; or

"(2) affect the authority of the Comptroller General to settle claims and accounts."

Transitional Provisions For Amendments By Pub.L. 101-510

Section 1405(b) of Pub.L. 101-510, provided that amendments made by section 1405(a) would

that the Secretary is unable to make such certifications and setting forth the actions that the Secretary will take in order to enable the Secretary to make such certifications after the end of that period."

Legislative History

For legislative history and purpose of Pub.L. 101-510, see 1990 U.S. Code Cong. and Adm. News, p. 2931. See, also, Pub.L. 102-484, 1990 U.S. Code Cong. and Adm. News, p. 1636.

Appropriation accounts available for definite periods

At the end of the 5th fiscal year after the period of availability for appropriation account ends, the account shall be closed and any other obligated or unobligated in the account shall be canceled and shall not be available for obligation or expenditure for any purpose.

Not required or required to be credited to an appropriation account, but may be credited to the account under subsection (a) or under section 1555 of this title as miscellaneous receipts.

101, Div. A, Title XIV, § 1405(a)(1), Nov. 5, 1990, 104 Stat. 1676.)

HISTORICAL AND STATUTORY NOTES

gations that are no longer valid shall be deobligated and canceled.

"(c) Report on audit.—Not later than December 31, 1991, the Secretary of Defense shall submit to Congress a report containing the results of the audit conducted pursuant to subsection (a). The report shall set forth—

"(1) the information required to be identified pursuant to subsection (a); and

"(2) for each appropriation account (A) the average length of time funds have been obligated, (B) the average size of the obligation, and (iii) the object classification of the obligations, all shown for total obligations and separately for valid obligations and obligations that are no longer valid."

Transitional Provisions For Amendments By Pub.L. 101-510

Section 1405(b) of Pub.L. 101-510, provided that amendments made by section 1405(a) would be applicable to accounts in which the obligated balance has not been transferred under section 1552(a)(1) of this title as of Nov. 5, 1990, for restoration of unobligated amounts where the obligated balance has not been transferred pursuant to section 1551(a)(1), as effective before Nov. 5, 1990, for cancellation of unobligated funds withdrawn pursuant to section 1552(a)(2) of this title prior to Nov. 5, 1990, and allowed charges to be taken against current appropriations with respect to adjustments to balances, see section 1405(b) of Pub.L. 101-510, set out as a note under section 1551 of this title.

Legislative History

For legislative history and purpose of Pub.L. 101-510, see 1990 U.S. Code Cong. and Adm. News, p. 2931.